

## Special Ordinance No. 38, 2010

CITY CLERK

AN ORDINANCE VACATING A PORTION OF A PUBLIC STREET LOCATED IN THE CITY OF TERRE HAUTE, VIGO COUNTY, INDIANA.

BE IT ORDERED by the Common Council of the City of Terre Haute, Indiana.

**SECTION 1.** Pursuant of the provisions of I.C. 36-7-3-12, it is desired and deemed necessary to vacate a portion of a public street located in the City of Terre Haute, Vigo County, Indiana, which is now laid out and existing in the City of Terre Haute, Indiana, and described as follows:

A portion of Spang Street as shown on the Replat of Lots 1 to 92 and lots 207, 208, 209, and 210 (except lots 3 – 59 and 60) in Stewart Place Subdivision, as found in Plat Book 14, Page 27 in the records of the Office of the Recorder of Vigo County, Indiana. More particularly described as follows, to-wit:

Beginning at the intersection of the East line of Eleventh and one-half (11-1/2) Street and the North line of Spang Street (also being the Southwest corner of Lot Two (2) in the aforementioned subdivision). Thence East on the North line of Spang Street, One Hundred Twenty-two and Eight tenths (122.8) feet, more or less, to the Southeast corner of Lot number Two Hundred Seven (207) in said subdivision; thence South Twenty-five (25) feet to the center of Spang Street as platted; thence West on the center line of Spang Street, One Hundred Twenty-two and Eight tenths (122.8) feet, more or less, to the intersection of the East line of Eleventh and one-half (11-1/2) Street and the center line of Spang Street; thence North on the East line of Eleventh and one-half (11-1/2) Street, Twenty-five (25) feet, more or less, to the point of beginning. Containing 0.7 acre, more or less.

It is the intent of this description to convey all of that portion of Spang Street which lies immediately South of the adjoining Lots Three (3), Four (4), and Two Hundred Seven (207) in the Replat of Stewart Place Subdivision and immediately North and adjoining a certain tract of land owned by Indiana Rail Road Co., LLC as described by Instrument 2006011277 as found in the records of the Office of the Recorder of Vigo County, Indiana.

Commonly bound by 2610 S 11 1/2th Street.

**SECTION 2.** Be it further ordained that said portion of said street in the City of Terre Haute, Indiana, above described, be and the same is vacated and will revert to the abutting properties, subject to the continuation of any and all existing easement rights for public utilities.

**SECTION 3.** Be it further ordained that the City Clerk be, and he is hereby directed to furnish a copy of this Ordinance to the Recorder of Vigo County, Indiana, for recording, and to the Auditor of Vigo County, Indiana.

WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publications as by law provided.

Presented by Council Member, \_\_\_\_\_  
Rich Dunkin

Passed in open Council this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Neil Garrison, President

ATTEST: \_\_\_\_\_  
Charles P. Hanley, City Clerk

Presented by me to the Mayor of the City of Terre Haute, this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

\_\_\_\_\_  
Charles P. Hanley, City Clerk

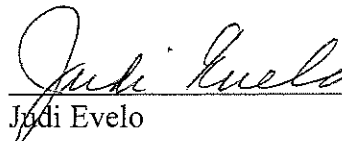
Approved by me, the Mayor of the City of Terre Haute, this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

\_\_\_\_\_  
Duke A. Bennett, Mayor

ATTEST: \_\_\_\_\_  
Charles P. Hanley, City Clerk

This instrument prepared by Judi Evelo, 3051 S US Hwy 41, Terre Haute, IN 47802

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.

  
\_\_\_\_\_  
Judi Evelo

**PETITION FOR VACATION OF PORTION OF A PUBLIC STREET**

TO THE PRESIDENT AND MEMBERS OF THE COMMON COUNCIL OF THE CITY OF  
TERRE HAUTE, VIGO COUNTY, INDIANA

CITY OFFICIALS:

Mary Jane Myrtle, of Terre Haute, Indiana is the owner of land abutting a certain Public Street which is located in Terre Haute, Indiana, and respectfully petitions and requests the legislative body of the City of Terre Haute, Indiana to vacate that portion of a Public Street described below pursuant to the various provisions of I.C. 36-7-3-12 and in support of this Petition would show to the Common Council of said City as follows:

1. Mary Jane Myrtle, the petitioner, is owner of the following parcels of real estate located in Vigo County, State of Indiana:

**Real Estate Owner**

Mary Jane Myrtle, Linda Coplin POA  
222 New St., Apt 4  
New Bern, NC 28560

**Parcel Number**

84-06-34-332-003.000-002  
84-06-34-332-004.000-002

**a. Additional Property Owner**

**Abutting Property Owner**

Indiana Rail Road Company  
101 W Ohio St, Ste 1600  
Indianapolis, IN 46204

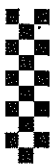
**Parcel Number**

84-06-34-334-001.000-002

2. That the portion of the Street to be vacated as set forth may be more particularly described as follows, to-wit:

A portion of Spang Street as shown on the Replat of Lots 1 to 92 and lots 207, 208, 209, and 210 (except lots 3 – 59 and 60) in Stewart Place Subdivision, as found in Plat Book 14, Page 27 in the records of the Office of the Recorder of Vigo County, Indiana. More particularly described as follows, to-wit:

Beginning at the intersection of the East line of Eleventh and one-half (11-1/2) Street and the North line of Spang Street (also being the Southwest corner of Lot Two (2) in the aforementioned subdivision). Thence East on the North line of Spang Street, One Hundred Twenty-two and Eight tenths (122.8) feet, more or less, to the Southeast corner of Lot number Two Hundred Seven (207) in said subdivision; thence South Twenty-five (25) feet to the center of Spang Street as platted; thence West on the center line of Spang Street, One Hundred Twenty-two and Eight tenths (122.8) feet, more or less, to the intersection of the East line of Eleventh and one-half (11-1/2) Street and the center line of Spang Street; thence North on the East line of Eleventh and one-half (11-1/2) Street, Twenty-five (25) feet, more or less, to the point of beginning. Containing 0.7 acre, more or less.



It is the intent of this description to convey all of that portion of Spang Street which lies immediately South of the adjoining Lots Three (3), Four (4), and Two Hundred Seven (207) in the Replat of Stewart Place Subdivision and immediately North and adjoining a certain tract of land owned by Indiana Rail Road Co., LLC as described by Instrument 2006011277 as found in the records of the Office of the Recorder of Vigo County, Indiana.

Commonly bound by 2610 S 11 1/2th Street.

3. No landowner adjoining and abutting the Public Street to be vacated would be adversely affected by the vacation of said Public Street. Listed landowner of affected property is the owner of all property adjoining and abutting the Public Street to be vacated.
4. Vacating the Public Street will not interfere in any way with fire protection or police protection for property located within the City of Terre Haute, Indiana.
5. The name and address of the owners of land that abuts to that portion of the Public Street above proposed is to be vacated are listed above.

WHEREAS, Petitioner respectfully requests and petitions the Common Council of the City of Terre Haute, Indiana, after hearing on this Petition in accordance with law to:

- a) Adopt an Ordinance vacating that portion of the Public Street referred to and described above, subject to existing easement rights for public utilities;
- b) Cause the Clerk of the City of Terre Haute to furnish copies of said Vacation Ordinance to the County Recorder of Vigo County for recording and to the County Auditor, and to thereupon cause the Recorder to release said Ordinance to the Vigo County Area Planning Department for distribution in accordance with the City's Zoning Ordinance and Subdivision Code.
- c) For all other proper relief in the premises.

PETITIONER:

Mary Jane Myrtle, Linda Coplin POA  
222 New St., Apt. 4  
New Bern, NC 28560

By Judi Coplin POA for Mary J. Myrtle Date Oct 9, 2010  
Mary Jane Myrtle, Linda Coplin POA

This instrument prepared by Judi Evelo, 3051 S US Hwy 41, Terre Haute, IN 47802.

**AFFIDAVIT OF:**

COMES NOW affiant \_\_\_\_\_

and affirms under penalty of law that affiant is the owner of record of the property located

at 2610 So. 11 1/2 St. Terre Haute, IN 47807

for which a rezoning is requested and hereto a copy of the deed is attached evidencing such ownership.

I affirm under penalty for perjury, that the foregoing representations are true.

Mary Jane Myrtle

[Typed name of owner(s) on deed]

SIGNATURE:

[Signature] POA for Mary Jane Myrtle

SIGNATURE: \_\_\_\_\_

STATE OF INDIANA)  
SS: (COUNTY OF VIGO)

Personally appeared before me, a Notary Public in and for

said County and State, Craven County NC

who acknowledges the execution of the above and foregoing, after being duly sworn upon his oath and after having read this Affidavit.

WITNESS my hand and notarial seal, this 16 day of October, 2010.

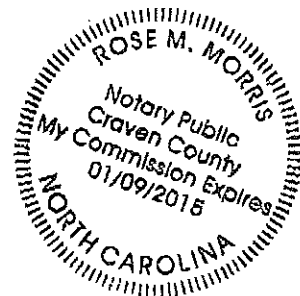
Notary Public: Rose M. Morris

Rose M. Morris

[Typed name]

My Commission Expires: 1/9/15

My County Of Residence: Craven



**DURABLE GENERAL POWER OF ATTORNEY  
OF  
MARY JANE MYRTLE**

**ARTICLE I  
DESIGNATION OF AGENT**

I, Mary Jane Myrtle, of Vigo County, State of Indiana, being a mentally competent adult, do hereby designate and appoint my daughter, Linda Coplin, as my true and lawful Attorney-in-Fact, hereinafter sometimes referred to as my Agent, giving my Agent full authority and power to make financial, asset management, and personal decisions for me in my name, place and stead as authorized in this document.

**ARTICLE II  
REVOCATION OF PRIOR POWERS**

I hereby revoke all powers of attorney, general or limited, heretofore granted by me as principal and terminate all agency relationships created under any such prior powers, including those of all successor agents named or contemplated therein, if any.

**ARTICLE III  
GENERAL ASSET AND FINANCIAL POWERS**

My Attorney-in-Fact is authorized, in his or her sole and absolute discretion from time to time and at any time, with respect to any and all of my property and interests in property, real, personal and mixed, and matters affecting my financial and personal interests, by way of illustration and not intending any limitation, to proceed on my behalf as stipulated under the following sections of the Indiana Code governing Powers of Attorney:

- |                 |  |
|-----------------|--|
| IC §30-5-5-2    | Conferring general authority with respect to real property transactions.   |
| IC §30-5-5-3    | Conferring general authority with respect to tangible personal property transactions.                                    |
| IC §30-5-5-4    | Conferring general authority with respect to bond, share and commodity transactions.                                     |
| IC §30-5-5-4.5  | Conferring general authority with respect to retirement plans.   |
| IC §30-5-5-5    | Conferring general authority with respect to banking transactions.   |
| IC §30-5-5-6    | Conferring general authority with respect to business operating transactions.  |
| IC §30-5-5-7    | Conferring general authority with respect to insurance transactions.   |
| IC § 30-5-5-7.5 | Conferring general authority with respect to the handling of transfer on death transfers and payable on death transfers. |

- IC §30-5-5-8                      Conferring general authority with respect to beneficiary transactions.
- IC §30-5-5-9                      Conferring general authority with respect to gift transactions.
- IC §30-5-5-10                    Conferring general authority with respect to fiduciary transactions.
- IC §30-5-5-11                    Conferring general authority with respect to claims and litigation.
- IC §30-5-5-12                    Conferring general authority with respect to family maintenance.
- IC §30-5-5-13                    Conferring general authority with respect to benefits from military service.
- IC §30-5-5-14                    Conferring general authority with respect to records, reports, and statements.
- IC §30-5-5-15                    Conferring general authority with respect to estate transactions.
- IC §30-5-5-16                    Conferring general authority with respect to health care powers.
- IC §30-5-5-17                    Conferring general authority with respect to withdrawing or withholding of medical treatment on behalf of the principal.
- IC §30-5-5-18                    Conferring general authority with respect to delegating authority.
- IC §30-5-5-19                    Conferring general authority with respect to all other matters.

I hereby incorporate by reference all the powers granted an Attorney-in-Fact under Indiana Code Sections 30-5-5-2 through 30-5-5-19 and grant these powers to Linda Coplin or her successor under this document.

#### ARTICLE IV SPECIFIC AUTHORITY TO REPRESENT PRINCIPAL WITH INTERNAL REVENUE SERVICE

I grant to my acting Power of Attorney the rights granted under the IRS Power of Attorney and Declaration Representative Form 2848 to have access to all of my files and records with the Internal Revenue Services Department, to secure copies of all prior income tax returns filed by me as well as gift tax returns and corporate tax returns filed by me. In addition, in the event that I am incapacitated, my acting Power of Attorney shall have the authority to sign all tax returns required on my behalf. My Power of Attorney is authorized to receive and inspect confidential tax information and to perform any and all acts that I can perform with respect to the tax matters, which would include the authority to sign any agreements, consent, or other documents. In addition, I grant my Power of Attorney the right to receive refund checks, the power to sign returns and the power to execute a request for disclosure of tax returns or return information.

ARTICLE V  
PROVISION APPLICABLE TO ARTICLE III AND ARTICLE IV

With respect to Article III (general asset and financial powers) and Article IV (authority to represent me with the Internal Revenue Service), it is to be understood that the authority I have conferred to my Attorney-in-Fact in no way is intended to limit or restrict my own authority or decision making capabilities covering such powers and authority as long as I remain mentally competent.

Furthermore, this power of attorney and the authority I have conferred and specified under Article III and Article IV above shall remain in full force and effect until such time as I may hereinafter revoke the same in writing, provided further, that the same shall not be affected by my subsequent disability, incompetence, or lapse of time.

ARTICLE VI  
THIRD-PARTY RELIANCE

No person who relies in good faith upon any representations by or authority of my Attorney-in-Fact, shall be liable to me, my estate, my heirs or assigns for recognizing such representations or authority.

ARTICLE VII  
NOMINATION OF GUARDIAN

In the event a judicial proceeding is brought to establish a guardianship over my person or property, I hereby nominate my Attorney-in-Fact, Linda Coplin, hereinabove designated and appointed, to be my guardian.

ARTICLE VIII  
EFFECTIVE DATE

This power of attorney shall become effective immediately, as of this 6<sup>th</sup> day of July, 2010.

ARTICLE IV  
HEALTH CARE POWERS AND HIPPA AUTHORIZATION

This provision clarifies the authority with respect to health care powers and religious tenets under Indiana Code § 30-5-5-16. In addition, my attorney in fact is authorized to complete and HIPPA compliant authorization required for release of protected health information, and any health care provider, including but not limited to physicians, medical facilities, laboratories, hospitals, nursing homes or any long term care facility, clinics, psychologists, psychiatrists and any related psychological or psychiatric testing or treating facility or hospital who receives such an authorization for release of information may rely on this authorization to disclose whatever protected health information may be requested by my attorney in fact, including but not limited to information regarding my physical, mental or behavioral care and treatment, laboratory results including testing for dangerous communicable disease such as HIV and AIDS virus, x-rays or other imaging studies, other diagnostic test reports and any other information as may be requested by my attorney in fact. My attorney in fact may use and disclose such protected health information for any stated reason related to my care, including but not limited to evaluation of my competence, arranging for the provision of medical or psychiatric care, medication and



prescriptions, insurance issues, evaluation of my care, litigation on my behalf, arranging for my care and custody, and referral requests. I understand that this authorization is revocable at any time and that my revocation must be in writing and sent to my health care providers named herein and that any revocation will not apply to any information that has already been released in response to this authorization. Provided however, that my disability, incompetence or incapacity shall not revoke this HIPPA authorization. Further, I understand and intend that this HIPPA authorization shall also be revoked in the event of my revocation of this power of attorney.

#### ARTICLE X MISCELLANEOUS PROVISIONS

1. This durable power of attorney is intended to be valid and given full faith and credit in any jurisdiction or state in which it is presented.

2. My Attorney-in-Fact shall not be entitled to any compensation for services performed hereunder, but shall be entitled to reimbursement for all reasonable expenses incurred and paid, including transportation costs, as a result of carrying out any provisions of this instrument.

3. My Attorney-in-Fact, including his or her heirs, legatees, successors, assigns, personal representatives, and estate, acting in good faith hereunder, are hereby released and forever discharged from any and all liability (including civil, criminal, administrative or disciplinary), and from all claims or demands of all kinds whatsoever by me or my heirs, legatees, successors, assigns, personal representatives, or estate, arising out of the acts or omissions of my Attorney-in-Fact, except for willful misconduct or gross negligence.

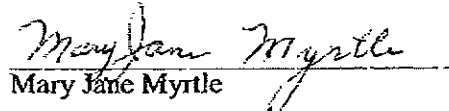
4. My Attorney-in-Fact is authorized to make photocopies of this instrument as frequently and in such quantity as she shall deem appropriate. Each photocopy shall have the same force and effect as any original.

5. If any part or provision of this instrument shall be invalid or unenforceable, such part or provision shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts or provisions of this instrument.

6. This instrument, and actions taken by my Attorney-in-Fact properly authorized hereunder, shall be binding upon me, my heirs, successors, assigns, legatees, guardians and personal representatives.

7. This power of attorney authorizes my attorney-in-fact to make various property related decisions on my behalf, some of which relate to my health care. Accordingly, I confirm that in connection therewith, my attorney-in-fact shall be treated as my personal representative for all purposes relating to my PHI, as provided in 45 C.F.R. 164.502(g)(2).

IN WITNESS WHEREOF, I have hereunto executed this Durable Power of Attorney this 6<sup>th</sup> day of July, 2010.

  
Mary Jane Myrtle

STATE OF INDIANA

)  
) SS:  
)

COUNTY OF VIGO

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Mary Jane Myrtle, who acknowledged the execution of the foregoing General Durable Power of Attorney this 6<sup>th</sup> day of July, 2010.

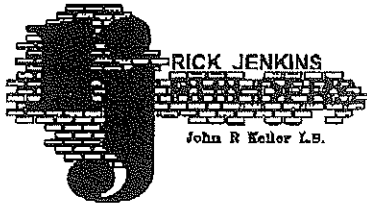
WITNESS my hand and notarial seal.



D. Joan Kasameyer  
Notary Public  
SEAL  
State of Indiana  
My Commission Expires March 16, 2012

*D. Joan Kasameyer*  
D. Joan Kasameyer, Notary Public  
My Commission expires: 03/16/2012  
Resident of Vigo County

*This instrument prepared by Brooke O. Rockey, Attorney at Law  
2704 South Goyer Road, Kokomo, Indiana, 46902. Telephone: 765-453-9600.*



## RJ Builders

4301 S. Sixth Street, Terre Haute IN 47802  
(812) 299-4128; FAX (812) 232-6801

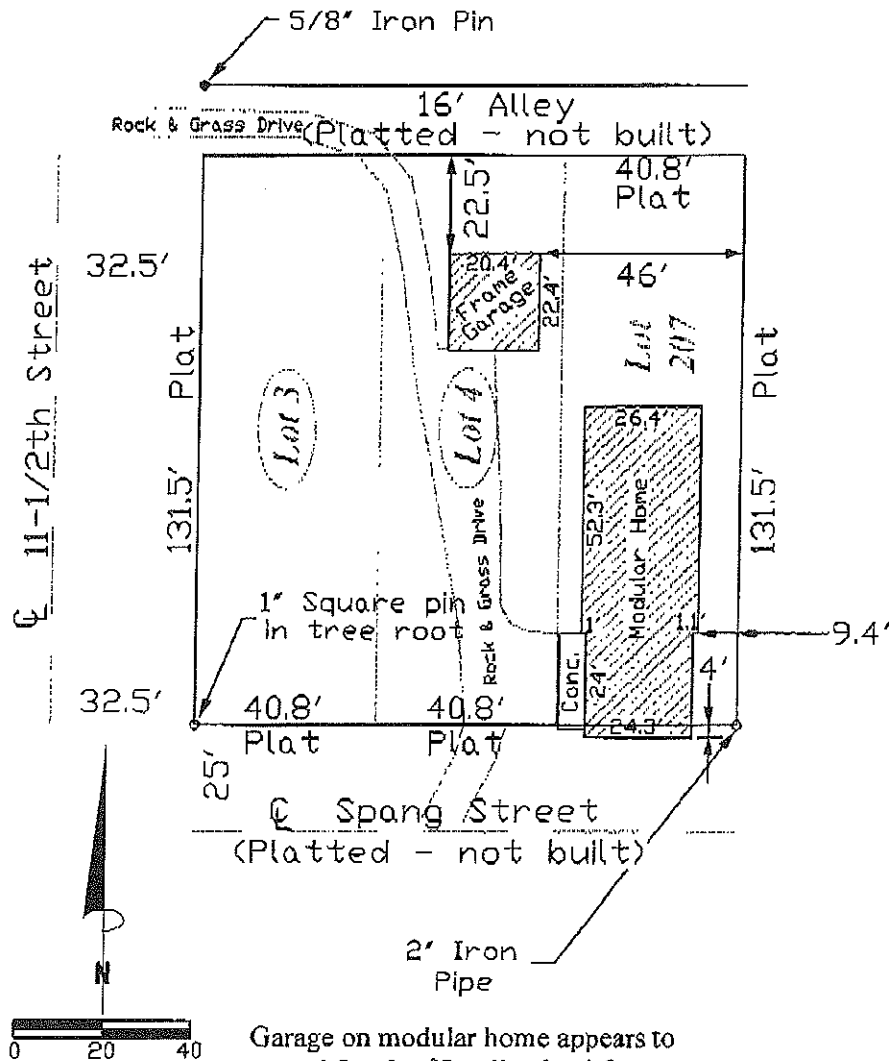
### SURVEYOR LOCATION REPORT

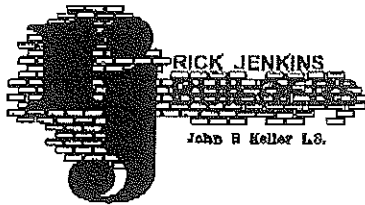
THIS REPORT IS DESIGNED FOR USE BY A TITLE INSURANCE COMPANY WITH RESIDENTIAL LOAN POLICIES. NO CORNER MARKERS WERE SET AND THE LOCATION DATA HEREIN IS BASED UPON LIMITED ACCURACY MEASUREMENTS. THEREFORE, NO LIABILITY WILL BE ASSUMED FOR ANY USE OF THE DATA FOR CONSTRUCTION OF NEW IMPROVEMENTS OR FENCES.

PROPERTY ADDRESS: 2610 So. 11-1/2th Street  
Terre Haute, IN 47802

BUYERS NAME: Harold & Mary Wright  
SELLERS NAME: Mary Jane Myrtle

THIS IS NOT A BOUNDARY SURVEY





## RJ Builders

4301 S. Sixth Street, Terre Haute IN 47802  
(812) 299-4128; FAX (812) 232-6801

### SURVEYOR LOCATION REPORT

THIS REPORT IS DESIGNED FOR USE BY A TITLE INSURANCE COMPANY WITH RESIDENTIAL LOAN POLICIES. NO CORNER MARKERS WERE SET AND THE LOCATION DATA HEREIN IS BASED UPON LIMITED ACCURACY MEASUREMENTS. THEREFORE, NO LIABILITY WILL BE ASSUMED FOR ANY USE OF THE DATA FOR CONSTRUCTION OF NEW IMPROVEMENTS OR FENCES.

PROPERTY ADDRESS: 2610 So. 11-1/2th Street  
Terre Haute, IN 47802

BUYERS NAME: Harold & Mary Wright  
SELLERS NAME: Mary Jane Myrtle

#### DESCRIPTION:

##### Short Legal

Lots numbered Three (3), Four (4), and Two Hundred Seven (207) in the Replat of Lots 1 to 92 and Lots 207, 208, 209 and 210 except Lots 3-59 and 60 in Stewart Place Sub., being a subdivision of Lots 1, 2, 3, 4, 5, 11, 13, 14, and part of Lot 12 of William H. Stewart's Sub., of North half of the Southwest Quarter of Section 34, Township 12 North, Range 9 West.

THIS IS NOT A BOUNDARY SURVEY

See Sheet 2 for S.L.R. Plat


I HEREBY CERTIFY TO THE PARTIES HEREIN NAMED THAT THE REAL ESTATE DESCRIBED HEREIN WAS INSPECTED UNDER MY DIRECT SUPERVISION ON THE DATE INDICATED AND THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS REPORT CONFORMS TO THE REQUIREMENTS CONTAINED IN SECTIONS 27 THROUGH 29 OF 865 IAC 1-12 FOR A SURVEYOR LOCATION REPORT. THE ACCURACY OF ANY FLOOD HAZARD STATEMENT SHOWN ON THIS REPORT IS SUBJECT TO MAP SCALE UNCERTAINTY AND TO ANY OTHER UNCERTAINTY IN LOCATION OR ELEVATION ON THE REFERENCED FLOOD INSURANCE RATE MAP.

DATE OF SURVEY: 9-02-10

LOCATION REPORT NO.: 100826-1

PROPOSED BUYER: Harold & Mary Wright  
PROPOSED LENDER: First Financial Bank

REGISTERED LAND SURVEYOR'S  
SIGNATURE.

  
John R. Keller L.S. 80920000



Sheet 1 of 2